

# Exhibit 2



STATE OF DELAWARE  
DEPARTMENT OF CORRECTION  
Office of the Commissioner  
245 McKee Road  
Dover, Delaware 19904

Terra Taylor  
Deputy Commissioner

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October 26, 2023

**Via E-mail and U.S. Mail**

ACLU of Delaware  
100 W. 10<sup>th</sup> Street, Suite 706  
Wilmington, DE 19801

Mr. Bernstein,

In response to your October 4 letter, the Delaware Department of Correction appreciates the opportunity to communicate with the ACLU about the affirmative steps we have taken and will continue to take to protect the ability of eligible voters who are in DOC custody to choose to express their constitutional right to participate in the voting process.

During previous election cycles, up to and including the 2022 election, incarcerated individuals in DOC facilities, just like members of the community, have had access to request and receive voter registration applications, absentee ballot request forms, and absentee ballots through postal mail. Additionally, the DOC made hard copies of voter registration applications and absentee ballot request forms available on demand to incarcerated individuals. Furthermore, the DOC has worked collaboratively with the Delaware Department of Elections to provide information about voter eligibility, voter registration, and absentee voting to incarcerated individuals through a *Voter Registration and Absentee Voting Information* flyer which was printed and posted in inmate housing areas. The most recent flyer from 2022 is attached for your information.

The DOC has provided staff training in correctional facility mailrooms and housing areas to ensure that official Department of Elections postal mail, including voter registration and absentee ballot materials, are delivered to incarcerated individuals and that incarcerated individuals have unrestricted access to return completed election-related materials to election officials through postal mail. Incarcerated individuals who have questions about completing voting-related documents have had the ability to contact the Department of Elections directly by phone from correctional facilities free of charge – see the phone number printed on the attached information flyer - or to contact a correctional counselor.

For the upcoming 2024 election cycle, the Delaware Department of Correction has again begun to work collaboratively with the Delaware Department of Elections in the following ways to support the right of eligible incarcerated individuals to participate in the voting process:

- Provide information about voter eligibility, voter registration, and absentee voting to incarcerated individuals through a *Voter Registration and Absentee Voting Information* flyer that will be printed and posted throughout DOC facilities.
- Ensure that incarcerated individuals in DOC facilities have access to request and receive voter registration applications, absentee ballot request forms, and absentee ballots through postal mail.
- Make hard copies of voter registration applications and absentee ballot request forms available on demand within DOC facilities to incarcerated individuals.
- Provide training to staff in correctional facility mailrooms and housing areas to ensure that official Department of Elections mail, including voter registration and absentee ballot materials, are delivered through postal mail to incarcerated individuals and that incarcerated individuals have unrestricted access to return completed election-related materials to election officials through postal mail. The Bureau of Prisons and Bureau of Community Corrections have affirmed the continued unrestricted delivery of material mailed to incarcerated individuals for campaign purposes by registered political candidates, campaign committees, or committees of a political party, as well as any material mailed by political action committees or organizations engaging in issues advocacy or voter mobilization (defined as "Political Mail" by the US Postal Service).
- Facilitate the ability of incarcerated individuals who have questions about completing voting-related documents to contact the Department of Elections directly by phone from correctional facilities free of charge or to direct questions to a correctional counselor for in-person assistance.

In addition, during the 2024 election cycle, the Delaware Department of Correction is working to take these steps:

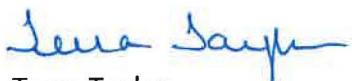
- Load the *Voter Registration and Absentee Voting Information* flyer to inmate tablets. This information will be "pushed" to all inmate users and require each user to open and manually "acknowledge receipt" of the information during the login process before accessing tablet content. This information will remain available on inmate tablets through the general election.
- Post the *Voter Registration and Absentee Voting Information* flyer on DOC-operated television channels that are used to broadcast DOC-generated information and other educational and entertainment content to incarcerated individuals.

Furthermore, incarcerated voters have the ability to receive candidate advertising, to watch, read, and listen to candidate forums or otherwise inform themselves through broadcast television, radio, and print media, which are widely available in correctional facilities, and to gather additional information and dialogue with family and community contacts through phone, video calls, and tablet

messaging. *Just like members of the community, it is ultimately always an incarcerated person's individual decision whether to choose to participate in the voting process.*

We recognize that you have raised concerns about inmate absentee voting in the wake of the Delaware Supreme Court decision in *Albence v. Higgin*. We have received guidance from the Delaware Department of Elections and the Delaware Department of Justice, who have determined that incarcerated person absentee voting is permitted and will continue to be accepted by Delaware election authorities during the 2024 election cycle. We are continuing to engage with the Delaware Department of Elections and the Delaware Department of Justice on the impact regarding this ruling, and if circumstances warrant, the DOC may be open to a meeting with voting stakeholders, the Department of Elections, and the Delaware Department of Justice at a future date.

Best regards,

  
Terra Taylor  
Acting Commissioner  
Delaware Department of Correction